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## DOC 1981-03 Confidentiality of Faculty Personnel Files

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## PROPOSAL TO THE ACADEMIC SENATE

TITLE: Confidentiality on Faculty Personnel FilesSUBMITTED BY: Joseph W. Stander, S.M., ProvostDATE: January 28, 1982

Indicate the action required: Legislative, Concurrence, or Consultative, and refer to the appropriate reference in the Senate Constitution (Article IIB, 1, 2, 3).

ACTION IS: Legislative REFERENCE IS: II, B, 1, c

DESCRIPTION OF PROPOSAL: State objectives, rationale, and how proposal is to be implemented

The University has been very careful on confidentiality with regard to Faculty personnel files; the official file being located in the Office of the Provost. However, there has never been an official written policy concerning any aspect of confidentiality, and, in particular, on evaluation material such as is used in appointments, promotion and tenure decisions.

At this time I believe we should develop a recommendation for an official policy on confidentiality of Faculty personnel files.

The enclosed document from the American Council on Education clearly states the rationale and need for such a policy.

I suggest that the Faculty Affairs Committee of the Academic Senate develop a recommendation statement for approval by the entire Senate.

# Self-Regulation Initiatives:

## Guidelines for Colleges and Universities

No. 7  
December 1981

### Confidentiality of College and University Faculty Personnel Files: Its Appropriate Role in Institutional Affairs

American colleges and universities are dedicated to sustaining and fostering the values of equity of human treatment, equal opportunity of access, collegiality of spirit in association, academic freedom, and intellectual excellence. Within the complex context of the values of academic life in the many educational institutions devoted to these principles, the difficult issue of confidentiality can arise in conjunction with faculty appointments and promotions. "Confidentiality," as used in this statement, refers to the protection of statements and other such evaluative materials, as well as the identities of authors of letters in deliberations concerning the appointment, promotion, and granting of tenure to faculty members.

Institutions have long based the appointment and advancement of faculty members on academic qualifications described rigorously in evaluations of an individual candidate's work by academic peers inside and/or outside the institution. At many institutions these evaluations, provided without fee as a professional duty, are submitted in confidence. They are made available for inspection only to those legitimately involved in the faculty appointment or review process. For these institutions, one concern surrounding confidentiality is that within these various processes any faculty member, from within the institution or from another institution, who is asked to evaluate a colleague should have the assurance that the particulars of his or her judgments will be held in confidence and will not be made available to anyone except those duly elected or appointed to participate at some level of the review.

We wish at the outset to state clearly that confidentiality is not secrecy. There are three general principles which accompany confidentiality and assure its correct application:

The procedures by which academic judgments are made must be public so that candidates and members of educational communities generally can be assured that the processes of evaluation provide for a full and fair review of candidates' qualifications.

An avenue for redress must be available if improprieties in the process are believed to have occurred.

On October 13, 1981, the Board of Directors of the American Council on Education adopted this statement on the role of confidentiality in faculty personnel matters. The Statement was drafted by ACE's Committee on Confidentiality, a task force of college and university presidents from a diverse range of public and private institutions. It was reviewed and approved by ACE's Advisory Committee on Self-Regulation and was discussed at several meetings of the ACE Board of Directors.

The statement, prepared in response to a request by the Association of American Universities, is designed to serve as a statement concerning the importance of confidentiality in higher education that could be introduced in courts and other administrative settings. The Association of American Universities is also preparing a statement on this subject.

Candidates for faculty advancement should be afforded the opportunity to know and to benefit from the deliberation of peers.

Although appointment and promotion procedures will clearly differ from institution to institution and will vary in accordance with any collective bargaining agreement, such procedures for evaluation in institutions of higher education should ensure that these three principles are incorporated in the review process.

As part of the procedures for making responsible decisions about faculty appointments, all institutions have a clear obligation to obtain objective information and candid appraisals of candidates. Most educators believe that confidentiality encourages candor and openness in the evaluation of individuals under review and therefore is crucial to that process:

Confidentiality can strengthen professional equity of treatment as distinct from results achieved through favoritism or popularity.

Confidentiality need not be contrary to equality of opportunity when it allows supportive assertion of considerations properly weighed in particular cases with all other relevant factors.

Confidentiality can promote intellectual excellence, when it allows candor without injury to feeling, and supportive praise without inflation of esteem. It can permit adverse criticism and positive advocacy in a way that allows either to be objectively assessed and, if necessary, discounted.

Fair and searching assessment of colleagues is the surest guarantee of professional advancement on authentic grounds, for when evaluations are full and honest, and when personalities are not at issue, the relaying of useful information to faculty members under review is expedited and potentially far more effective than it can be when evaluations are unavailable or less candid or less precise. Without the assurance of confidentiality, higher education may risk a revival of appointment and advancement processes that rely primarily on informal conversations and oral evaluations which are a



potentially deeply-discriminatory means of evaluation that current promotion and tenure processes and public laws are, in fact, intended to expunge.

We recognize that confidentiality is not absolute. In many instances disclosure of confidential information is sought by individuals under review. When that occurs significant public interest must be weighed—the protection of individual rights and the preservation of procedures which depend upon confidentiality for their effectiveness and fairness. Thus, the interests of the individual seeking disclosure of information held in confidence must be balanced against the interests of institutions of higher education in maintaining equity and quality.

Because institutions of higher education are being asked with increasing frequency to disclose confidential information, they should make efforts to define the scope of investigation so that it be limited to what is reasonably necessary to shed significant light upon the matter under investigation. At the same time they should make clear to federal officials the need to avoid needless proliferation of disclosure, unnecessary duplication of documents, and any investigational action that would impair the functioning of the institution.<sup>1</sup>

We believe that confidentiality protects the rigor and dispassion of judgments rendered in promotion of faculty; and that confidentiality can be effectively exercised within the sturdy texture of academic custom and with proper permeability to the law.

We are therefore committed to the preservation of confidentiality within the review process at those institutions which honor it, and which, in so doing, honor the principles of equity, equal opportunity, collegiality, academic freedom, and intellectual excellence.

ACE Committee on Confidentiality  
October 1981

<sup>1</sup> For one presentation of guidelines regarding access to confidential information, the reader may wish to see the "1979 Report of the Committee on Confidentiality in Matters of Faculty Appointment," *The University of Chicago Record*, May 22, 1979, pp. 165-170.

This statement is one in a series of policy guidelines developed to help higher education respond to issues by means of voluntary self-regulation. The Office on Self-Regulation Initiatives, a program of the American Council on Education, works cooperatively with representative associations and institutional leaders in identifying issues on which self-regulation is needed, formulating responses to those issues, and distributing the resulting guidelines and recommendations.

College and university administrators are urged to review the guidelines as a basis for considering changes in existing institutional policies. Each statement is developed through a process of wide review among representatives of different types of institutions and professional responsibilities in higher education. They are intended to summarize general principles of good practice that can be adapted to the specific circumstances of each college and university.

The statements are not copyrighted and may be reproduced in the interest of education. Permission for resale, reprinting, or commercial use should be requested in advance from ACE's Publications Department.

For further information, contact Elaine El-Khawas, Director, Office on Self-Regulation Initiatives. Additional copies of this statement may be obtained upon request to the office. Please include a self-addressed, stamped envelope.

# American Council on Education

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